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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,909	02/27/2004	Helge Lubenow	QGN-004.0 US-2	7522
29425	7590	06/23/2005	EXAMINER	
LEON R. YANKWICH YANKWICH & ASSOCIATES 201 BROADWAY CAMBRIDGE, MA 02139			FOSTER, CHRISTINE E	
			ART UNIT	PAPER NUMBER
			1641	

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/788,909

Applicant(s)

LUBENOW ET AL.

Examiner

Christine Foster

Art Unit

1641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,33,34 and 67-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1,2,33,34 and 67-75 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1 and 75, drawn to a method of separating particles from a solution, classified in class 530, subclass 413.
  - II. Claims 2 and 75, drawn to a method for isolating a molecule from a sample in a vessel using affinity particles, classified in class 435, subclass 178.
  - III. Claims 33 and 75, drawn to a method of separating particles from a solution, classified in class 530, subclass 413.
  - IV. Claims 34 and 75, drawn to a method for isolating a molecule from a sample in a vessel using affinity particles, classified in class 435, subclass 178.
  - V. Claims 67 and 75, drawn to a method of separating particles from a solution, classified in class 530, subclass 413.
  - VI. Claims 68 and 75, drawn to a method for isolating a molecule from a sample in a vessel using affinity particles, classified in class 435, subclass 178.
  - VII. Claims 69 and 75, drawn to a method of separating particles from a solution, classified in class 530, subclass 413.

- VIII. Claims 70 and 75, drawn to a method for isolating a molecule from a sample in a vessel using affinity particles, classified in class 435, subclass 178.
- IX. Claims 71 and 75, drawn to a method of separating particles from a solution, classified in class 530, subclass 413.
- X. Claims 72 and 75, drawn to a method for isolating a molecule from a sample in a vessel using affinity particles, classified in class 435, subclass 178.
- XI. Claims 73 and 75, drawn to a method of separating particles from a solution, classified in class 530, subclass 413.
- XII. Claims 74-75, drawn to a method for isolating a molecule from a sample in a vessel using affinity particles, classified in class 435, subclass 178.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I-XII are independent and patentably distinct. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are independent and patentably distinct methods. The methods differ with respect to one or more of ingredients, method steps, and/or endpoints; therefore, each method is patentably distinct. Furthermore, the distinct ingredients, method steps, and/or endpoints require separate and distinct searches. As such, it would be burdensome to search these inventions together.

Group I is drawn to a method of separating particles from a solution while minimizing particle loss that includes the step of combining a solution and a matrix material in the presence of 0.0005% to 2.0% of a detergent, which is not a limitation of Groups II-XII, while:

Group II is drawn to a method for isolating a molecule from a sample using affinity particles, which includes the step of combining the sample containing a molecule of interest with affinity particles suitable for binding said molecule, and where at least one step is performed in the presence of 0.0005% to 2.0% of a detergent;

Group III is drawn to a method that includes the step of dispersing a particulate matrix material that was incubated in the presence of 0.0005% to 2.0% of a detergent;

Group IV is drawn to a method that includes the steps of providing a multiplicity of affinity particles having a binding affinity for a molecule of interest and incubating the affinity particles in the presence of 0.0005% to 2.0% of a detergent, and where at least one other step in the method may also be performed in the presence of 0.0005% to 2.0% of a detergent;

Group V is drawn to a method that includes the step of combining a solution and a matrix material in the presence of at least 0.05% of a detergent;

Group VI is drawn to a method that includes the step of combining a sample containing a molecule of interest with affinity particles suitable for binding said molecule, where at least one step is performed in the presence of at least 0.05% of a detergent;

Group VII is drawn to a method that includes the step of combining a solution and a particulate matrix material in the presence of a detergent at a concentration not exceeding 1%;

Group VIII is drawn to a method that includes the step of combining a sample containing a molecule of interest with affinity particles suitable for binding said molecule, where at least one step is performed in the presence of a detergent at a concentration not exceeding 1%;

Group IX is drawn to a method that includes the step of incubating a matrix material in the presence of at least 0.05% of a detergent;

Group X is drawn to a method that includes the steps of providing a multiplicity of affinity particles having a binding affinity for a molecule of interest and incubating the affinity particles in the presence of at least 0.05% of a detergent, and where at least one other step in the method is may also be performed in the presence of at least 0.05% of a detergent;

Group XI is drawn to a method that includes the step of incubating a particulate matrix material in the presence of a detergent at a concentration not exceeding 1%; and

Group XII is drawn to a method that includes the steps of providing a multiplicity of affinity particles having a binding affinity for a molecule of interest and incubating the affinity particles in the presence of a detergent at a concentration not exceeding 1%, and where at least one other step in the method may also be performed in the presence of detergent at a concentration not exceeding 1%.

3. Because these inventions are distinct for the reasons given above, have acquired a separate status in the art because of their recognized divergent subject matter and as shown by their different classification, and the searches of the patent and non-patent literature required for one group are not required for the others, restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine Foster whose telephone number is (571) 272-8786. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on (571) 272-0823. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christine Foster  
Patent Examiner  
Art Unit 1641



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06/20/05